



MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MAURICE L. HUDSON
Special Federal Litigation Division
(212) 788-8684
fax (212) 788-9776
mHUDSON@law.nyc.gov

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BY FAX: (212) 805-6737

SO ORDERED

Honorable George B. Daniels
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

HON. GEORGE B. DANIELS
AUG - 4 2008

Re: Milford Maxwell v. City of New York, et al.
08-CV-1606 (GBD)

Your Honor:

I am an attorney in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing the City of New York in the above-referenced federal civil rights lawsuit. During the initial conference held before Your Honor this morning, the parties were instructed to confer regarding whether there was agreement to enlarge the time for defendant City of New York to answer or otherwise respond to the amended complaint. I now write pursuant to Your Honor's instructions to respectfully inform the Court that the parties have agreed to a forty-five day enlargement of time for defendant City of New York to answer or otherwise respond to the complaint from August 4, 2008, to September 18, 2008, and to respectfully request that Your Honor endorse the aforementioned proposed enlargement. Plaintiff, who is appearing *pro se* in this matter, consents to this request.

There are several reasons for seeking an enlargement of time. In accordance with this Office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint, including false arrest and malicious prosecution. Specifically, plaintiff alleges in his amended complaint that he lawfully entered the subway station turnstile using his "disability metro card" at 42nd Street and 8th Avenue in Manhattan at about 7:20 a.m. on December 6, 2006, whereupon he was approached by New York City Police Department (NYPD) Officers Clyde Fernandes and Timothy Aiken. Plaintiff further alleges that after the NYPD officers checked the card to see if plaintiff had paid his fare, the officers arrested and searched plaintiff and confiscated personal property that has not

been returned. Plaintiff alleges that he was charged with Theft of Service, Criminal Trespass in the Third Degree and Disorderly Conduct. Finally, plaintiff alleges that he was incarcerated for a total of twenty-three days and required to appear in court for one and a half years before the charges against him were ultimately dismissed.

In addition to permitting further investigation of the plaintiff's allegations, the proposed enlargement will also allow time for the plaintiff to complete service upon the individual defendants if he has not already done so. Once that is done, the individual defendants will presumably seek representation from this Office pursuant to General Municipal Law § 50(k). The requested enlargement would allow time for this Office to conduct an inquiry to determine whether it may represent the individually named defendants in this action. See General Municipal Law § 50(k); Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985); Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law).

No previous request for an enlargement of time to respond to the complaint has been made, and this request does not affect the status conference presently scheduled before Your Honor on November 13, 2008, at 9:30 a.m. Accordingly, it is respectfully requested that the Court endorse the parties' agreement to enlarge defendant's time to answer or otherwise respond to the complaint from August 4, 2008, to September 18, 2008.

Respectfully submitted,



Maurice L. Hudson
Assistant Corporation Counsel

cc: Mr. Milford Maxwell, Jr. (By Mail)
Plaintiff *Pro Se*
51 MacDougal Street #207
New York, NY 10012